

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

RevoLaze, LLC,) Case No. 1:16-cv-01080-BYP
Plaintiff,) (Formerly Case No. CV-16-861410 in the
v.) Common Pleas Court of Cuyahoga County,
Dentons US LLP, *et al.*,) Ohio)
Defendants.) **PLAINTIFF REVOLAZE, LLC'S
MOTION TO REMAND**
)

Plaintiff RevoLaze, LLC (“Plaintiff” or “RevoLaze”), by and through counsel, and pursuant 28 U.S.C. § 1447(c), hereby respectfully requests that this Honorable Court remand this case to the Common Pleas Court of Cuyahoga County, Ohio as a result of the lack of complete diversity between Plaintiff and Defendants. RevoLaze filed a Memorandum in support of this Motion, which RevoLaze incorporates by reference.

Respectfully submitted,

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(Subject to *pro hac vice* admission)

Counsel for Plaintiff RevoLaze, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served via the Court's ECF system on this 25th day of May 2016.

/s/ Troy L. Moore
Troy L. Moore

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RevoLaze, LLC,) Case No. 1:16-cv-01080-BYP
Plaintiff,) (Formerly Case No. CV-16-861410 in the
v.) Common Pleas Court of Cuyahoga County,
Dentons US LLP, *et al.*,) Ohio)
Defendants.) **PLAINTIFF REVOLAZE, LLC'S
MEMORANDUM IN SUPPORT OF ITS
MOTION TO REMAND**
)

Plaintiff RevoLaze, LLC (“Plaintiff” or “RevoLaze”), by and through counsel, states the following in support of its Motion to Remand pursuant 28 U.S.C. § 1447(c):

Procedural History

On April 4, 2016, RevoLaze filed an action for legal malpractice and breach of fiduciary duty in the Common Pleas Court of Cuyahoga County, Ohio, against Defendants Dentons US LLP (“Dentons US”), Mark L. Hogge (“Atty. Hogge”), and Steven J. Stein (“Atty. Stein”) (collectively, “Defendants”) resulting from Defendants’ representation of RevoLaze in connection with the enforcement of RevoLaze’s patent portfolio. On May 4, 2016, Defendants filed a Notice of Removal [Doc #1] (“Notice”) asserting that “[t]his Court has original jurisdiction over Plaintiff’s State Court Action [*i.e.*, *RevoLaze, LLC v. Dentons US LLP, et al.*;]

Cuyahoga County, Ohio Common Pleas Court Case No. CV-16-861410] under 28 U.S.C. § 1332.” Notice, p. 2, ¶ 4.

Argument

The purported basis for Defendants’ removal is that, “[u]pon information and belief, complete diversity exists between Plaintiff and Defendants, thus satisfying the diversity requirement of 28 U.S.C. § 1332(a)(1).” Notice, p. 2, ¶ 7. If complete diversity is lacking between Plaintiff and Defendants, a judgment in favor of Plaintiff would be subject to attack, even after discovery and trial. Therefore, it behooves Plaintiff to now reveal all facts of which it is aware that are relevant to the issue of whether this Court has jurisdiction.

“[C]omplete diversity requires that no party share citizenship with any opposing party.” *Safeco Ins. Co. Of Am. v. City of White House*, 36 F.3d 540, 545 (6th Cir. 1994). Plaintiff RevoLaze is a limited liability company. Exhibit 1, Declaration of Darryl J. Costin, Sr. (“Costin Declaration”), ¶ 1. A limited liability company is a citizen of *each* of the states of which its members are citizens. *Delay v. Rosenthal Collins Group, Inc.*, 585 F.3d 1003, 1005 (6th Cir. 2009). Where another limited liability company is a member of the limited liability company that is a party, the Court must look to the “sub-members” of this limited liability company as well. *Delay*, 585 F.3d at 1005. If any member of the limited liability company party, or sub-member of a limited liability company that is a member of the limited liability company party, is a citizen of the same state as an opposing party, complete diversity is absent, and there is no federal jurisdiction. *Delay*, 585 F.3d at 1005.

Defendant Dentons US is a limited liability partnership. Notice, p. 2, ¶ 10. A limited liability partnership, similar to a limited liability company, has the citizenship of each of its partners. *Swiger v. Allegheny Energy, Inc.*, 540 F.3d 179, 184 (3d Cir. 2008). *See also Carden*

v. *Arkoma Assocs.*, 494 U.S. 185, 195 (1990) (determining the citizenship of a limited partnership by looking to the citizenship of its partners).

Thus, Plaintiff RevoLaze and Defendant Dentons US are both entities whose citizenship is determined by the citizenship of their members and partners, respectively. Defendants state that “[o]ne or more Dentons US partners are citizens of each of the following US States: Arizona; California; Colorado; Connecticut; Florida; Georgia; Illinois; Indiana; Kansas; Massachusetts; Maryland; Missouri; New Jersey; Nevada; New York; Oregon; Pennsylvania; Rhode Island; Texas; Virginia; and Washington, DC.” Declaration of Jill Maganza-Ruiz [Doc #1-2] (“Maganza-Ruiz Declaration”), ¶ 4. Defendant Atty. Hogge and Defendant Atty. Stein are citizens of Virginia and Connecticut, respectively. Notice, p. 2, ¶¶ 11 and 12. Defendants claim that “[u]pon information and belief based on a reasonable investigation of public records, Plaintiff’s members are citizens of Ohio, Delaware, and Michigan.” Notice, p. 2, ¶ 9. While it is true that some of Plaintiff’s members are citizens of Ohio, Delaware, and Michigan, Plaintiff’s members are also citizens of Arizona, California, Connecticut, Florida, Maryland, New York, Oklahoma, Pennsylvania, South Carolina, Virginia, Washington, D.C., and Wyoming. Costin Declaration, ¶ 3.

Complete diversity therefore does not exist between Plaintiff and Defendants. RevoLaze and Dentons US, as a result of the citizenship of their members and partners, are both citizens of the following states: Arizona, California, Connecticut, Florida, Maryland, New York, Pennsylvania, Virginia, and Washington, D.C. Compare Costin Declaration, ¶ 3 with Maganza-Ruiz Declaration, ¶ 4. RevoLaze also is a citizen of Virginia and Connecticut, and therefore is a citizen of the same states as Defendant Atty. Hogge and Defendant Atty. Stein, respectively. Compare Costin Declaration, ¶ 3 with Notice, p. 2, ¶¶ 11 and 12. Consequently, the diversity

requirement of 28 U.S.C. § 1332(a)(1) cannot be satisfied. As this is the only basis for federal jurisdiction cited by Defendants, removal was improper and the case must be remanded.

WHEREFORE, Plaintiff respectfully requests that this Court remand this matter to the Common Pleas Court of Cuyahoga County, Ohio, and grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

/s/ Troy L. Moore

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Counsel for Plaintiff RevoLaze, LLC

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I hereby certify that a true and accurate copy of the foregoing was served via the Court's ECF system on this 25th day of May 2016.

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